19 3

Department of Land Revenue

OFFICE Board of Revenue

STATION Madras.

Mis No.

Dated 14-8-33

E. M. Gawne, Esquire, I.C.S.

Collector of South Kanara

To

The Secretary to the Board,

Land Revenue & Settlement,

Village Officers - (South Kanara) - Karkal Taluk - Beluvai village - Headman - Appointment - Padmanabha Shetty - Appeal - Remanded to Collector for fresh enquiry - further instructions solicited.

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B.P.Misc.No.1616, dated 10.6.1933.

The Board has now cancelled my predecessor's order, D.Dis.No.5914/32, dated 9.8.1932 and remanded the case to me for fresh enquiry I find it rather difficult to make out in what direction further enquiry is desired by the Board in this case. It has been elicited completely who are the relations of the deceased Potail and how they stand in relation -ship to him and who are qualified and who are unqualified.

appointed submit that this instruction is not contained in the order to hold a fresh enquiry.

3. I submit further that an instruction from the Board to examine and (if practicable) give the benefit of the oral test to an applicant as a matter of right would frustrate the object of the discretion allowed to Collectors who have been hitherto guided by the principles of heredity as well as the interests of administration in the matter of Village Officers' appointments in this District, as the Hereditary Village -Offices' Act does not strictly apply to this District. Though under rule 21 of the rules framed under Section 20 of the Madras Hereditary Village Offices' Act III of 1895, a Revenue Divisional Officer is vested with the discretion to examine the candidate orally, I think that the Revenue Divisional Officer's decision is subject to the superintendence, control and revision of the Collector under Sub Section 3 of Section 3 of Madras Regulation VII of 1828. In this connection I invite the kind attention of the Board to the penultimate sentence of paragraph 3 of my letter, D.Dis.No.395-33, dated 3.3.1933 and request that the Board may be pleased to give a definite ruling whether what I have said about the holding of an oral examination is right or not i.e., that the holding of an oral examination is an executive Act and cannot be claimed as of right by any relation of a deceased man and that it is within the discretion of the Collector to set aside such an order of the Revenue Divisional Officer.

analogy of certain rules framed under Act III of 1895. may be permitted to submit that the Board's suggestion will cause great administrative inconvenience, if every male relation has to be given notice in an appeal, no matter whether he claims or does not claim the post or whether he is qualified or not. The District practice is to require a complete enquiry by the Tahsildar and so to ascertain all the heirs. But it has never been the practice to issue notice to all the heirs since it has been presumed hitherto that persons who did not qualify themselves for a post, did not seek it. But the Board makes no such distinction. There is too much appealing in this District even now and in an Aliyasanthana family, there are generally a large number of heirs. To give notice to all the heirs and hear them would mean a considerable waste of time to the Collector, while it will do no good to the parties, most of whom will have no valid claims to urge. An aggrieved party always does appeal and it is usual to give notice to the respondent before an order is modified adversely to him.

As the points raised in this letter are of considerable importance, and the Board's resolution indicates that there should be a complete change in the District practice, which has been followed in the past. I have made this reference.

Village Officers - (South Kanara) - Kasaragod Tq - Belluvai Vg. Headman - Appointment - Padmanabha shetty - Appeal remanded to Collector for fresh enquiry - Reference from the Collector - Instructions issued

The Board had no information
Whether he was orally
examined and found fit
to hold the office it was
~~only~~ on this count that a
fresh enquiry was desired
by the Board The Collector
is therefore requested to
get a report from the
Rev. Divl. Officer regarding
the fitness of Padmanabha
Shetty to hold the office
after ~~having~~ orally examining him
and to appoint him if
found fit.

all Collectors in B.P. 66 Press of 23-6-1919 show that the discretion to exa- orally is ~~most~~ practically obligat- Though village offices in So Kanara are non hereditary and non statutory, appoint- ments to them are ~~being~~ made in accordance with the principles of succession laid down in the Alinasanthana law As the principles of hereditary succession are closely followed in this dt. on the analogy of the ot- the Board considers that it is reasonable, if not obligatory to give the benefit of the oral test to the next heir of a headm- if he happens to be a mi-

Para 4 of the reference.

3). The Board considers that no definite ruling is necessary on this point and that each case be decided according to its merits.

Para 5 of the Reference

4 Para 4 of the Board's resolution read above gave one of the reasons for cancelling the Collector's order in this particular case. ~~Where~~ The Board considered ~~that~~ not on account of the complicated nature of the question, that the Collector's enquiry would have been complete if notices ~~had~~ been issued to the other nearer heirs; but it does ~~not~~ did make it incumbent on the part of the Collector to issue notices to all the heirs in every case.

K.B.
10/8/33

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Note sheet

Village officers – (South Kanara) – Karkal Tk – Belwai Vge – Headman – Appointment – Padmanabha Shetty – Appeal – Remanded to Collector for fresh enquiry –

A 2408/33 Pp 1-3 ✓

To A

Please see the Collector's letter at Pp 1-3 ✓

The Collector states that he finds it difficult to make out in what direction further enquiry was desired by the Board, suggests that no instructions were issued in the Board's order regarding oral examination. As pointed out by the Collector it was already elicited who were all the relatives of the deceased Postail and now they were related to him. No further enquiry on this point is necessary. As indicated in para 3 of the Board's order the claims of all the relations were discussed

conducted by the Revenue
Circle and Padmanabha Shetty
and each of them to the Collector
to decide
The Board came in the matter
was nominated to the Collector
in its report dated 27-31 Oct
of (P1) it was pointed out
that Padmanabha Shetty should
have been promoted if necessary
after an oral examination. The
It is on this point that the enquiry was directed by the Board
Collector may would be asked
to get a report from the RDO
regarding the oral examination
of Padmanabha Shetty and to
appoint him if found fit as
he is the next person entitled to
succeed to the late headman

South Kanara Dt are thro-
hereditary - not the appoint-
ment to Headkill offices are
made according to the principles
of Mitakshara Law and the
principles of hereditary
succession are ~~more~~ closely
followed in this district than
~~in any other contered~~
districts

hair. If these principles are
applied to a Municipality
~~such as~~ the South Kensington, it
always must prove benefit
of the rate that to the taxpayers
their pecuniary responsible is not
obligatory. ~~It~~ seems if this
may be extended to the
Collector.

Para 4 of the Electors letter

No hard and fast rules No 4
can be laid down for this but to be
Each case will have to be dealt
dealt with on its own merits.

Para 5 of the Electors ~~letter~~

claims also that the enquiry before the Collector could be complete. In the proceedings before the Collector Padmanabha Shetty's claims were not considered ~~at all~~, and he had to appeal to the Board Para 4 of the Board's order gave one of the reasons for cancelling the Collector order ~~No change was introduced by the Board's order in the DI practice~~) The Collector may perhaps be informed as above

by
29/7/33